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OF A FIRM AND LASTING PEACE AND
PROGRESS IN FASHIONING A REGION
OF PEACE, FREEDOM, DEMOCRACY
AND DEVELOPMENT

SECURITY COUNCIL
Forty-ninth year

Note by the Secretary-General

The attached document contains the twelfth report of the Director of the Human Rights Division of the United Nations Observer Mission in El Salvador (ONUSAL) covering the period from 1 July to 30 September 1994. As will be recalled (see S/23999, para. 3), it was decided that the work of ONUSAL in relation to the San José Agreement on Human Rights (A/44/971-S/21541, annex) would continue to be the subject of a separate series of reports.

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Annex

Twelfth report of the Director of the Human Rights Division of the United Nations Observer Mission in El Salvador (ONUSAL)

(1 July-30 September 1994)

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I. INTRODUCTION

1. The Human Rights Division has been reporting regularly to the Secretary-General on the human rights situation in El Salvador, largely on the basis of active verification of cases or situations that constitute or are likely to constitute human rights violations. On the basis of complaints received by ONUSAL statistics have been compiled which have helped to identify trends in human rights situation during specific periods and to keep track of broader trends as well.

2. However, it should be pointed out that progress or the lack thereof in consolidating the system for the protection of human rights in El Salvador cannot be measured solely on the basis of case statistics. Numerical discrepancies can be attributed to many different factors and occur repeatedly. Such an evaluation, then, must deal essentially with the state of the legal and political institutions for the protection of human rights in El Salvador which, at this stage in the peace process, are capable of consolidating the progress made.

3. While ONUSAL has not neglected verification of complaints of human rights violations, it has, in preparation for its withdrawal from El Salvador, gradually been shifting the focus of its active verification to institutional support, which offers an opportunity for making an overall assessment of the situation and determining whether a degree of "sustainable development" in human rights protection has been achieved by the anticipated date of completion of the Mission. The justification for this emphasis lies in the fact that permanent national institutions must fully assume prime responsibility for defending and protecting human rights in El Salvador as ONUSAL, which is an ad hoc and temporary mechanism, gradually withdraws from national life.

4. With this prospect in mind, the Human Rights Division has since July been working even more closely with the Office of the National Counsel for the Defence of Human Rights in the receiving and investigation of complaints. At the same time, the Division has been expanding its cooperation programmes with institutions responsible for the protection of human rights and the administration of justice in El Salvador, in order to help reform and strengthen them, pursuant to the guidelines set out by the parties in the peace agreements.

5. With these considerations in mind, this report has been prepared to inform the Secretary-General, and through him the Security Council, of the human rights situation in El Salvador, specifically in terms of the level of development and maturity of institutions responsible for defending, protecting and promoting human rights. For this reason, it differs in structure from previous reports. It contains a second chapter on institution-building and a third chapter that reviews the active verification of human rights on the basis of the complaints handled by ONUSAL.

II. INSTITUTION-BUILDING: A STEP IN THE RIGHT DIRECTION

6. The effective protection and enjoyment of human rights in El Salvador depends on the consolidation of a State in which the rule of law prevails and of democracy. In concrete terms this should be reflected in the establishment and proper functioning of the institutions and systems for the protection of human rights provided for in the peace agreements. Although this process is incomplete, it is advancing in the right direction.

7. The election of the new Supreme Court of Justice, which opens up new vistas for restructuring and purifying the judicial system, the gradual deployment of the Office of the National Counsel for the Defence of Human Rights throughout the country, measures to strengthen the Office's system of protection, together with the ongoing deployment of the National Civil Police, the appointment during the reporting period of its Inspector-General and the adoption of measures to correct its deficiencies are steps that indicate conclusively that institution-building has progressed and is more conducive to the further implementation of recommendations pertaining to the administration of justice and human rights. However, serious and disturbing delays persist in such areas as the accession to certain international instruments and the legal reform process.

A. The administration of justice

8. During the period under review the Legislative Assembly, in a step unprecedented in El Salvador, elected by consensus a new Supreme Court of Justice made up of distinguished and representative jurists. This was undoubtedly one of the most welcome signs of the pluralism and democratization which are beginning to take hold in El Salvador. It also confirms that the Court is in a position to achieve the independence and autonomy which are essential to it as the chief body of the judiciary.

9. Immediately after taking office, the judges of the Supreme Court of Justice stated their intention to review and reorganize the administrative apparatus and to purify the judiciary, as preliminary steps to further judicial reform which, as the judges themselves have noted, requires action in many different areas.

10. The determination of the Court's judges has already found expression in a number of measures to reorganize the judicial system. In my eleventh report I reiterated my concern about the way in which the Institute of Forensic Medicine was run by its previous director. The new Supreme Court of Justice has taken effective steps to ensure that the Institute is operated in accordance with the law and has also appointed a distinguished and respected specialist to head it. The Court has also taken note with interest of the information received from ONUSAL regarding members of the judiciary who, according to verified complaints, have been guilty of professional misconduct; this information supplements the evaluation conducted by the National Council of the Judiciary.

11. In August and September, the Human Rights Division held, in close coordination with the National Council of the Judiciary and the Council's Judicial Training School and with the support of the European Union, a series of nationwide training courses for judges, judges of courts of first instance and

justices of the peace in the application of the international human rights norms that have been incorporated into Salvadorian legislation. The purpose of the courses was to ensure that participants applied those norms in their arguments and decisions, harmonizing them with and according them priority over national legislation in view of their precedence. The courses were also attended by government procurators chosen by the Office of the Attorney-General of the Republic.

12. As part of this cooperation, an anonymous opinion poll was conducted among justices of the peace, judges of courts of first instance and government procurators. The survey yielded valuable information regarding the judges' perception of the way the judicial system operates, which in general matched the perception of government procurators.

13. A number of replies are revealing. Asked about the effective enjoyment of human rights, 71 per cent of the lower court judges considered it "insufficient", a perception shared by as many as 91.3 per cent of the justices of the peace. In response to a question on problems affecting the independence of judges, as many as 29.6 per cent of the justices of the peace thought that the main problem was pressure from their superiors (a view shared by 34 per cent of the lower court judges). The results once again illustrate the need to carry out reforms to guarantee judges the autonomy and independence from their superiors they require in the exercise of their judicial functions. They also reveal a critical attitude towards the human rights situation which would in principle seem to indicate a strong commitment to providing an appropriate response.

14. The fact that the judges (30.7 per cent of the justices of the peace and 27.7 per cent of the judges of courts of first instance) find their biggest problem to be their working relationship with the Office of the Chief State Counsel is a further indication of the need to increase the number of public defence attorneys and to broaden their training and expertise through courses and publications; this task could be accomplished through the Judicial Training School with support from the international community.

15. Asked which legal reforms they considered most urgent, the judges pointed first to the need to adopt, on second reading, the current constitutional reforms; secondly, to the need to adopt the new criminal code, code of criminal procedure and prison act; thirdly, to the need to abolish extrajudicial confession; fourthly, to prepare and adopt a bill on habeas corpus; and lastly, to regulate by law the procedures for arrest and to shorten the periods of administrative detention. As may be seen, these views are consistent with the recommendations made by the Commission on the Truth and the Human Rights Division.

16. As to the main shortcomings in the administration of justice that were likely to constitute violations of due legal process, both the justices of the peace and the lower court judges agreed that the most serious problem was the large number of sentenced prisoners. For the justices of the peace, this shortcoming was followed by failure to nullify statements obtained by coercion, oversights by the courts in cases involving arbitrary detention, the absence of a judge in certain important proceedings and, lastly, oversights by the courts

in cases involving deaths. For their part, the judges of courts of first instance ranked the absence of judges in certain important proceedings second, followed by failure to nullify statements obtained by coercion, oversights by the courts in cases involving arbitrary detentions and, lastly, oversights by the courts in cases involving deaths.

17. In the light of these findings, it is imperative that the new Supreme Court of Justice take urgent steps to deal with these matters, through hearings and other measures aimed at solving current problems. Here it is essential to involve the National Council of the Judiciary, through its Judicial Training School, and the Ministry of Justice in the search for and implementation of short-term solutions.

18. The appointment of the new Supreme Court of Justice has opened up new and improved opportunities for strengthening the Salvadorian judicial system. While problems in the administration of justice require a sustained long-term effort on account of their depth and complexity, it is equally true that there are a number of recommendations which can be contemplated in the short term whose implementation is essential in laying down the foundations of judicial reform. Two examples are the administrative reorganization and the purification of the judiciary, which are moving forward as a result of the determination of the new Supreme Court of Justice. It is regrettable, however, that other tasks which Salvadorian judges and prosecutors themselves identified in the survey and which are consistent with the recommendations made repeatedly by the Human Rights Division and the Commission on the Truth have not received the impetus they can and should be given. This is the case with the approval of legislative reforms, whose unaccountable delay is currently one of the main hurdles to improving the administration of justice and machinery for protecting human rights in El Salvador.

B. Legislative reform

19. I must express my concern over the serious delays occurring in the area of legislative reform. During the period covered by this report, progress in this area has been minimal. The constitutional reforms adopted in the first round of voting by the previous Legislative Assembly, which incorporate some of the recommendations made by the Human Rights Division and the Commission on the Truth, are still awaiting ratification. Also pending are the proposed new criminal code, code of criminal procedure and prison act, despite the fact that the draft codes were submitted to the Legislative Assembly in May 1994 and the prison bill in June.

20. The delay in the adoption of the criminal code and code of criminal procedure also delays the adoption of a number of partial reforms that have been recommended and incorporated into the draft codes; these include shortening the period of administrative detention, regulating the conduct of law enforcement officials in terms of ensuring respect for human rights, abolishing extrajudicial confession and establishing basic principles regarding arrest. Adoption of these legal reforms does, of course, involve complex issues that require conscientious and detailed analysis by legislative committees, but this

should not prevent the legislature from moving ahead with them as rapidly as possible.

21. Similarly, there has been no progress on the recommendations regarding habeas corpus legislation, the composition and powers of the National Council of the Judiciary or a new career judicial service act: no proposals have been submitted to the Legislative Assembly on these subjects. Nor has any action been taken on the recommendation to repeal the 1886 Police Act.

22. It is also disturbing that there has been no move to ratify or accede to a number of international instruments, the most important being the Optional Protocol to the International Covenant on Civil and Political Rights, a/ the Inter-American Convention to Prevent and Punish Torture b/ and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, c/ or to recognize the jurisdiction of the Inter-American Court of Human Rights. Accession to these instruments would constitute an important step in consolidating the system of human rights protection in El Salvador.

C. The Office of the National Counsel for the Defence of Human Rights

23. The Office of the National Counsel for the Defence of Human Rights, a product of the peace agreements, is a national institution with broad powers, and hence broad responsibilities, for the protection and promotion of human rights. As the time of ONUSAL's withdrawal from El Salvador approaches, it becomes increasingly urgent and essential that the Office exercise its powers effectively. This is why I told the Secretary-General in my previous report that I would keep him informed on progress in this area.

24. Bearing the departure of ONUSAL in mind, the Human Rights Division has persistently advised the Office to pursue its institutional strengthening more vigorously and has steadily urged the Government and the international donor community to cooperate with the Office in this process. With a view to making the Office fully operational, I have devoted a substantial portion of the Human Rights Division's resources to technical cooperation with that body.

25. I must express my satisfaction with the progress achieved within this framework of cooperation during the period covered by this report. Cooperation between ONUSAL and the Office of the National Counsel for the Defence of Human Rights has taken the form of a technical assistance programme in the registration and legal characterization of complaints and the investigation of facts or situations likely to constitute human rights violations. The programme now operates in all branches of the Office throughout the country by means of a mechanism whereby complaints submitted to ONUSAL are received also by the Office, unless the complainants have stipulated that they should be kept confidential, in which case they are investigated jointly.

26. The adoption of this joint verification mechanism, which began to function in July, has meant the permanent assignment by the Human Rights Division of legal and police officials to advise the various branches of the Office of the

National Counsel in the acceptance, registration, legal characterization and investigation of complaints. Thus, ONUSAL, while continuing to exercise its verification mandate, is gradually transferring its case-load to the national agency while providing ongoing technical assistance in the field.

27. This mechanism has yielded positive results on a number of levels: ONUSAL is sharing its experience in verification, both in legal matters and in police investigation methods, with the staff of the Office of the National Counsel, and it is helping to enhance the professionalism of the Office's staff in terms of their grasp of the norms of international human rights law and the application of those norms in their daily work and in terms of the adoption and, where appropriate, adaptation of categories of analysis and working definitions and criteria commonly accepted in the human rights field.

28. Joint verification has been crucial in enabling the Office of the National Counsel for the Defence of Human Rights to expand its coverage since July. The Office now handles a larger case-load, in part because ONUSAL now forwards the complaints it receives. The Office also has greater investigational capacity, since Mission staff are working with it on a constant basis. These activities, coinciding with the commencement of an internal reform of the Office's protection mechanism, undertaken with support from the United Nations Development Programme (UNDP), have contributed to a significant increase in the number of rulings. During the months of August and September alone, the Office issued 47 rulings, compared with 27 rulings from January to July 1994. This progress, while considerable, needs to be supplemented by an effective follow-up mechanism to ensure that rulings are implemented. Cooperation has also enhanced the Office's capacity to organize, analyse and report information on the country's human rights situation.

29. In more general terms, cooperation has helped considerably in creating a transition mechanism that will ensure that ONUSAL coverage and verification activities in El Salvador will be taken over fully by the Office, thereby allaying any concern people might have at the time of the Mission's final departure. In this regard, we are pleased to note that people are increasingly taking their human rights complaints to the Office, something ONUSAL observers are always encouraging.

30. These steps have been supplemented by training courses on a variety of human rights topics. During the reporting period, workshops were held on methods of legal characterization and classification commonly used in the field of human rights law; they have done much to improve the work of verification. The workshops also dealt with methods used in police and judicial investigations of alleged human rights violations, focusing on the investigation process and the specifics of the administration of justice and forensics. The workshops have improved the Office's capacity to monitor the legality of such investigations. ONUSAL will continue to support such courses, more of which are scheduled.

31. As of this writing, the Office of the National Counsel for the Defence of Human Rights has begun to operate in other parts of the country; it now has eight branches in the departments and is getting ready to open two more. It must be said, however, that many of them are working under difficult conditions.

Shortages of qualified personnel, vehicles and technical and logistical resources are some of the major obstacles preventing the Office from operating effectively within the interior of the country. One of the reasons for this situation is, of course, budgetary restrictions. The Government's political will to strengthen the Office of the National Counsel for the Defence of Human Rights, reflected in the address by the President of El Salvador to the General Assembly in plenary meeting at its forty-ninth session, must take the concrete form of a significant increase in the budget appropriation for the Office, a matter also for the Legislative Assembly.

D. The National Civil Police

32. The deployment of the National Civil Police is moving along more rapidly against a background of insecurity among the citizens. At present, deployment of the police throughout the country needs to be accompanied by a vigorous effort to improve the way the police work. ONUSAL has been working extensively with the National Civil Police in this regard. A verification programme was successfully carried out at all posts, substations and stations of the National Civil Police in September with the full cooperation of the police leadership. Mention should also be made of a series of workshops that were held for command personnel of the new police force, the preparation and publication of the Guide to Rules and Procedures of the National Civil Police and, more recently, refresher courses for command personnel aimed at promoting and encouraging the consolidation of the law enforcement system within the framework of the peace agreements. Nevertheless, these initiatives require a sustained effort and call for greater versatility on the part of the National Civil Police in adopting corrective measures.

33. El Salvador now has a new law enforcement agency based on a new philosophy. This enormous challenge entails instilling in the country the very concept of a police force, free from militaristic and repressive connotations. The weaknesses of certain institutions, such as the judiciary, for example, together with the resistance of minority elements have compounded problems facing the National Civil Police. I must also express my concern in this regard at three events that occurred during the reporting period that threatened the life of the Director of the National Civil Police; the circumstances are still unclear and would appear to suggest ordinary criminal motives, but they are seen by some as threats against the police as an institution. It is against this difficult and complicated background that complaints of human rights violations by the National Civil Police have been made, which I shall now discuss.

34. The Human Rights Division received 87 admissible complaints against the National Civil Police during the reporting period. Of these, the alleged violation was confirmed after verification in 26 cases. In 21 cases, the police action was found not to have violated human rights; 7 cases could not be verified for want of objective evidence; and 33 cases are pending while the investigations continue.

35. There were nine complaints (10.3 per cent of all complaints) of violations of the right to life, of which eight related to arbitrary executions (three confirmed and five pending), and one to death threats, the latter confirmed.

The confirmed cases of arbitrary execution involved the death of Rodolfo Iraheta Contreras, 68 years of age, who was shot on 16 September 1994 by a National Civil Police officer during the latter's intervention in an incident of domestic violence at the victim's home in Comunidad Iberia, San Salvador; the death of Pedro Osmín Iraheta, killed by gunshots fired by a National Civil Police patrol on 7 August 1994 on a local road in San Felipe canton, Department of San Vicente, when Osmín, who was intoxicated, ignored an order to stop; and the case of Orlando Saravia Rodríguez, who died on 18 September 1994 in El Tránsito, San Miguel, during an operation carried out by officers out of uniform.

36. It should be emphasized that the arbitrary executions mentioned here do not reflect a deliberate response on the part of the officers involved and still less a systematic policy of police activity. It has been found that such cases entail a disproportionate use of firearms on the part of police officers and a tendency to obstruct subsequent investigations, even to the point of falsifying evidence and tampering with the scene of the crime. In the death of Iraheta Contreras, witnesses reported that the victim was left wounded for a long period of time while the officers involved hunted for someone who would support their version of the incident. Irregularities were also found in the case of Osmín Iraheta in San Vicente, in which the scene of crime was tampered with and contradictions later became apparent between the versions of witnesses and those of the police officers involved in the incident. Similarly, misconduct was found in the case of the death of Saravia in San Miguel, in which the National Civil Police officers waited for four hours before delivering the body to the Institute of Forensic Medicine; an incident took place involving Institute physicians and the judge in charge of the case, and versions of the facts were provided that were at odds with eyewitness accounts.

37. Some 28 complaints (32.2 per cent of all complaints) were filed concerning the right to integrity of person. They involved 2 cases of torture (1 confirmed, the other under investigation); 13 cases of ill-treatment (3 confirmed, 4 in which no violation was found and 6 under investigation); and 13 cases of excessive use of force (2 confirmed, 5 in which no violation was found and 7 pending). The confirmed case of torture is discussed in the corresponding section of this report.

38. ONUSAL received 37 complaints concerning the right to personal freedom. Of these, 29 cases involved arbitrary detentions (9 confirmed, 13 in which no violation was found and 7 pending); 2 cases involved arbitrary detention for petty misdemeanours (still pending); and 6 cases involved violation of procedural guarantees (4 confirmed and 2 in which no violation was found). The remainder of the complaints involved violations of the right to security of person (5.7 per cent) and to due process of law (9.2 per cent).

39. An overall look at the available data shows that most complaints fall under two major categories of violations. In the first group are violations resulting from ignorance or misinterpretation of regulations by the police, as in the case of arbitrary detentions. Contributing factors are the lack of a uniform, clear and specific legal framework to impose precise limits on police actions and the inadequate basic legal training received by National Civil Police officers at the National Public Security Academy. Investigation has also shown that in some

cases poor legal advice given to the National Civil Police, some of it contrary to the philosophy of the new police force, has led police officers to follow irregular procedures. Mention should also be made of shortcomings in the judiciary and the system of public defence attorneys, which in many cases are the cause of arbitrary detentions.

40. It has also been found that on some occasions police misconduct results from poor supervision within the National Civil Police. Both the upper echelons and the rank and file lack clear, defined, uniform guidelines, so that officers frequently have to use their own judgement to fill in the gaps left by the absence of specific instructions.

41. The second group of violations consists of those which are associated with more complex and profound problems and go beyond simple negligence or the ignorance of procedures. This second category generally covers claims of arbitrary execution, ill-treatment and excessive use of force. The arbitrary executions that have been reported are all the direct result of the excessive use of force by police officers in the course of duty. Resorting to the use of firearms regardless of the circumstances remains a constant. This is a recurrent theme which has been part of all the training and technical cooperation activities undertaken by the United Nations Observer Mission in El Salvador (ONUSAL) for the National Civil Police.

42. The alleged violations of the right to integrity of person would appear to reflect troubling attitudes within the new police force which must be eliminated as rapidly as possible. It seems strange that senior officers of the National Civil Police should in some cases claim to be "unaware" of events that might constitute violations of human rights or that, even by commission or omission, their conduct might lead to delays in both internal and external investigations.

43. The cases reported reveal a lack of uniformity in the attitudes of senior personnel in the police stations, substations or posts which are responsible for the acts that are later denounced, and even within the Disciplinary Investigation and Control Units. At times the institutional response has been lacking in clarity and force; at other times there have been encouraging signs of willingness to carry out thorough investigations. Nevertheless, there has been a failure to observe the requisite rigour which ought to accompany internal disciplinary procedures at this point in the police's early stages of existence.

44. The peace agreements provided El Salvador with a new doctrine of security, based on international norms and principles. The establishment of the new National Civil Police was envisaged in that context. The new police force, governed by a new philosophy, must nevertheless be able to operate effectively within the context of the relationship between the State and society which, as in any transitional situation, is changing slowly and somewhat reluctantly. There are signs that the population's attitude towards the police is changing: citizens want the police to be more effective in prosecuting crime and ensuring public safety and, at the same time, are demanding from them better treatment which reflects greater respect for human rights. In the light of this popular attitude, the National Civil Police occasionally finds itself facing a degree of uncertainty that is expressed in arbitrary responses, such as the excessive use

of force, ill-treatment, or constantly citing "disrespect for authority" as a justification for making arrests.

45. These problems are exacerbated by deficiencies in the training of police officers and senior personnel, as illustrated by the test results of National Civil Police senior and mid-level officers who participated in the ONUSAL workshop courses on police procedure and human rights in June and July 1994. Senior officers gave the highest percentage of incorrect responses on the following subjects: invalidity of proceedings (51.3 per cent); determination of the competent court (41 per cent); procedures for dealing with petty misdemeanours (23.1 per cent); and arrest procedures (20.5 per cent). Corporals and sergeants had the highest error rates on determination of the competent court (51.6 per cent); invalidity of proceedings (41.2 per cent); arrest procedures (36.8 per cent) and procedures for dealing with petty misdemeanours (25.8 per cent).

46. Refresher courses for senior National Civil Police officers were offered in September and October 1994 and included the subjects mentioned above. Although the participants' examinations have not yet been completely analysed, it is disturbing to note that senior police personnel and legal advisers from the eastern and western regions of the country did not sit for the test.

47. In view of these shortcomings in police conduct, the National Civil Police needs to strengthen its staff training programme significantly, particularly in the area of police intervention techniques and procedures. In this connection, it is imperative that the National Public Security Academy make the necessary arrangements for training new officers. It is likewise imperative that the supervisory mechanisms of the National Civil Police be strengthened, with particular emphasis on promoting the work of the Disciplinary Investigation Unit, so that any instances of police misconduct are promptly corrected and punished. The hierarchy of the National Civil Police should also be better defined so that the chain of command is clearly delineated.

48. The recent appointment of the Inspector-General of the National Civil Police is an important step towards strengthening the force. Without denying his need to have access to the entire police institutional structure, the Inspector-General could make optimum use of his vital supervisory functions in the National Civil Police if he exercised them through the Disciplinary Investigation and Control Units, which would also help to strengthen the Units and make them more operational. Similarly, monitoring by the Vice-Ministry of Public Safety is crucial to rectifying the reported inadequacies and achieving better coordination between the National Public Security Academy and the National Civil Police.

E. The emergency in the penitentiary system

49. The Human Rights Division has given particular attention to the situation in the country's penitentiary system, which represents one of the main structural causes of violence in El Salvador, as demonstrated by the series of riots that occurred in prisons over the course of the year. During the period covered by this report, several violent incidents occurred in detention centres

in the country resulting in the death of a number of inmates. In previous reports, I have pointed out to the Secretary-General some of the causes underlying these incidents, such as the serious situation in detention centres with regard to overcrowding, health, security, food, the disciplinary and administrative system and so forth.

50. In August, the Human Rights Division submitted to the Government, the Judiciary and the Public Prosecutor's Office, a detailed report on the functioning of the penitentiary system. The report was prepared in order to provide the authorities with the results of active verification and to offer technical assistance on the part of ONUSAL to modernize and ensure the normal functioning of the penitentiary system within the framework of the administration of justice. The report in question established the need to declare an emergency situation in El Salvador's penitentiary system, drawing up an overall plan of action with the participation of the various institutions involved in the administration of justice.

51. The diagnosis set forth in the study establishes that the deficiencies found by ONUSAL two years ago in the penitentiary system remain unchanged. This was the case with regard to the penal defence service, under the Office of the Attorney General of the Republic, where it has been noted that most of the public defence attorneys disregard the trials. This situation is compounded by the lack of strict monitoring of negligent attorneys. Similarly, the serious deficiencies in informing defendants about their rights and obligations and the status of their trials as well as in communication between the judiciary and the penitentiary system continue to exist. The Division has been able to establish that the data in the possession of one or another institution vary enormously, giving rise to confusion.

52. Another finding in the study indicates that in spite of the establishment of legislative mechanisms, such as the Emergency Act concerning Unsentenced Prisoners, the delay in the administration of justice constitutes one of the main causes of the crisis in the penitentiary system. Out of a total of 5,976 inmates in the country on 31 July 1994, only 1,191 have been tried, while another 4,785 - the equivalent of 80 per cent of the inmate population - are under prosecution.

53. In view of these and other factors, it is recommended that an emergency situation should be declared in the penitentiary system and a number of suggestions be made for various institutions, on the basis of which the situation could begin to be dealt with in the short and medium term, reorienting El Salvador's criminology policy.

54. Thus, it has been recommended that the Supreme Court of Justice should issue general instructions to criminal court judges to carry out a review of the cases with defendants present, in the country's various detention centres. Likewise, it is recommended that judges should be instructed that discretionary use of temporary detention should be invoked as an exceptional measure, thereby lessening prison overcrowding. It has also been recommended that the Court should ensure that detention centres receive the indictment documents and are informed of changes in the category of offences, transfers of jurisdiction as well as any other circumstances that may affect the legal situation of

defendants; that steps should be taken to improve conditions to guarantee observance of the time-limits for preliminary investigations and reaching a verdict, as well as speed of communication with the penitentiary system concerning punishment imposed; that the monitoring of the work by prison officers should be improved; that the application of court-awarded prison-release benefits and the mechanisms of conditional stay of sentence execution and parole should be encouraged and promoted under the terms specified by law. Lastly, it has been recommended that the Court should exercise the powers provided for under the law to replace negligent defence attorneys, notifying the Attorney General's Office in cases in which its officials are responsible for irregularities.

55. The report recommends that the National Council of the Judiciary use as criteria for evaluating judges' delays in the administration of justice for which they are responsible in cases where defendants are imprisoned, overall achievement of the objectives of prison visits and technical competence and readiness in applying prison-release benefits or other benefits of a similar nature.

56. It has been recommended that the Attorney General's Office, inter alia, should instruct public prosecutors with regard to the orderly and timely manner in which they should administer appeals with regard to judicial decisions involving the release of defendants; that monitoring by the public prosecutors of mandatory prison visits should be guaranteed under the terms provided for by law; and that staff from the Attorney General's Office should be assigned to National Civil Police posts in order to supervise and direct criminal investigations.

57. It has been recommended that the Attorney General's Office should require public defence attorneys to act more diligently in trials with defendants present, establishing internal mechanisms to monitor work carried out and the number of visits made to defendants, apply severe sanctions against defence attorneys who are negligent in discharging their functions and assign agents to National Civil Police posts in order to guarantee the right of detainees to defence.

58. Some recommendations have also been made to the Office of the National Council for the Defence of Human Rights urging it to monitor more closely the penitentiary situation, maintain census records and reliable statistics with basic data on the prison population, and put forward suggestions for drawing up a single penitentiary code of regulations to govern the administration of all detention centres in the country.

59. A large number of recommendations have been made to the penitentiary system itself. They include ones to: establish suitable mechanisms for updating documentation on the situation with regard to the trials of defendants; transmit every three months to each criminal court judge the list of defendants assigned to him; set up measures to review the way in which defendants' records are kept; ensure compliance with requests for the appearance of defendants before judges; establish clear guidelines governing decisions to transfer defendants in consultation with the judiciary; take immediate measures to begin the classification and placing of defendants in penitentiaries; establish a policy

for training penitentiary personnel; set up mechanisms for periodically evaluating penitentiary personnel; recognize the existence and role of prisoners' committees as spokesmen for requests by the inmate population; and unify penitentiary regulations.

60. The Human Rights Division has put forward recommendations to the Legislative Assembly calling upon it to carry out a study and urgently adopt comprehensive penal-system reforms and, in the meanwhile, enact provisional legislation approving the reduction of temporary detention and expansion of the scope of the Emergency Act concerning Unsentenced Prisoners, legislate measures for the effective application of penalties other than deprivation of freedom, and approve a suitable budget for the penitentiary system.

61. In addition to the recommendation to declare an emergency situation in the national penitentiary system, it is recommended that the central Government ensure that the Ministry of Justice gives priority to budgetary resources for the penitentiary system, promote implementation of the recommendations made to the other bodies and encourage private enterprise to participate in creating and developing work activities in the prisons.

62. The Human Rights Division will continue to monitor the penitentiary situation in El Salvador and provide the necessary technical assistance to carry out the recommendations made.

F. Non-governmental organizations

63. A robust and dynamic civil society is a basic pillar of a democratic State. Non-governmental organizations in the field of human rights are a very important factor in this area. During the armed conflict in El Salvador, non-governmental organizations played a decisive role in publicly reporting human rights violations. Many of their members paid for this with their lives. Since the signing of the peace Agreements, with the gradual improvements in respect for human rights and progress in the reform process within State institutions, new challenges and alternative courses of action have come about and the response to them by the various non-governmental organizations has been uneven.

64. On 8 September, the Human Rights Division conducted a seminar with non-governmental human rights organizations to consider the new role to be played by them and expand their work in anticipation of completion of the mandate of ONUSAL. At that meeting, in which the Inter-American Institute of Human Rights took part, the participants were requested to consider, among other matters, the way in which non-governmental organizations could assume in the near future the task, currently being carried out by ONUSAL, of verification and providing support to institutions reformed or established on the basis of the peace agreements as well as the way to take into account the new areas for developing purposeful work.

65. There was general agreement that the non-governmental human rights organizations should strive to strengthen civil society and that they can be instrumental in supporting and monitoring State bodies. In that regard, it was agreed that it was necessary to change organizational structures and work

methods in order to be able to play an effective role in the new public arena which a State based on the rule of law provided.

66. In this connection, the need arises to promote thematic specialization and complementarity in the work of the non-governmental organizations and also consider the real possibilities of acquiring financial resources and improving their ability to serve as rallying points. In the country's new framework, professionalization, specialization, efficiency and systematization are urgent needs on the part of the non-governmental organizations.

67. In view of the new opportunities for non-governmental organizations in building a State based on the rule of law, it is regrettable to note the real decrease in the levels of external financing, precisely at a time when the continuity of financial assistance is more important. In this regard, I reiterate the appeal made in my previous report calling upon the international community to continue to provide financial and technical support to the non-governmental organizations that are making progress in professionalization and are adapting their work methods and approach to the question of human rights to the new realities in El Salvador.

G. The armed forces

68. The Human Rights Division is continuing to provide support for developing the new doctrine of the armed forces. Various courses and lectures on relations between the army and society have been given during this period. A human rights course within the advanced infantry course was given in July for lieutenants before their promotion to the rank of captain, and a similar course was given in September as part of the Staff course for captains before promotion to the rank of major.

69. In addition, the Human Rights Division, in cooperation with the Ministry of Defence, prepared and published the book "Military Doctrine and Relations between the Army and Society", which consists of a series of essays on human rights, military sociology, military morality in a democracy and relations between the army and society within the framework of a constitutional system.

III. REVIEW OF ACTIVE VERIFICATION OF THE HUMAN RIGHTS SITUATION

A. Right to life

70. During the reporting period, 46 complaints of right-to-life violations were received. Of note are cases of death resulting from excessive use of force by the National Civil Police. I am also concerned at deaths resulting from violence within the country's prisons. While these cannot be directly attributed to agents of the State, they are ultimately the result of the State's failure to guarantee personal safety, particularly when, as is the case of prisoners, the victims are in State custody. Héctor Corea Torres and Roberto Mejía Boruca, held in La Unión prison, and Alberto Flores,

Nelson Amilcar Escobar and Carlos Cruz Jiménez, held in the San Vicente detention centre, died in riots during this period.

1. Arbitrary or extralegal executions

71. During this period, 18 complaints of arbitrary execution were received, continuing the slight downward trend.

72. Rodolfo Iraheta Contreras. On 16 September 1994, a heated argument began between the victim (68 years old), his son and his companion at his home in Comunidad Iberia, San Salvador. At that moment members of the National Civil Police arrived and ordered the victim to go out into the street. When Iraheta refused, maintaining that he was in his own home, one of the policemen fired into the dwelling, wounding the victim in the abdomen. The police took him to the hospital. Iraheta died from his wound on 26 September.

73. Pedro Osmín Iraheta. On 7 August 1994, at around 6.30 p.m. on a local road in San Felipe canton, San Vicente, Mr. Iraheta died after being shot by members of the National Civil Police. The victim, who was accompanied by a child of eight, was apparently drunk and driving a truck. According to the police, as the victim drove by in his truck a police officer ordered him to stop; the vehicle stopped, and when the officer said he had to search the truck the driver refused to let him, took a pistol from above the steering wheel, struggled with the officer and drove off. The police officer then alerted his colleagues further on. Iraheta drove straight at the officers, who had no alternative but to open fire. Iraheta died of a bullet to the head.

74. However, the child travelling with Iraheta (his nephew) reported that as they were driving along the road he saw some police officers walking; he heard no order to stop, only shouts to "make him stop, stop him". Then he heard shots and his uncle fell on top of him. He says his uncle kept the pistol under the seat and that the police officer took it from there together with the papers. After that the police moved the vehicle, driving it until it ran out of fuel. This amounts to tampering with the scene of the crime. The bullet which killed Iraheta was not found, although it should have remained inside the cab or in the victim's hat, which was also removed.

75. It has been established that those who took part in the incident were David Alvarado Alvarado, José Isidro López Mejía, Henry Oswaldo Maeda Cáceres, José Salvador Lobo Cabrera, Manuel Wilfredo Pino Molina, Juan Gilberto Martínez, Edgardo Antonio Gómez and José Henríquez Ortiz, who were detained by order of the relevant court. It has been established that the National Civil Police in San Vicente attempted to obstruct the investigation.

76. Orlando Saravia Rodríguez. On 18 September 1994, in El Tránsito, Department of San Miguel, Saravia was shot by members of the National Civil Police in the course of an operation. The police claim that, as the pick-up truck they were driving was overtaking the bicycle the victim was riding, the latter stopped and aimed at a policeman, holding a pistol with both hands and firing three times. The officer fired twice in response. According to eyewitnesses, Saravia was cycling along the road when he was overtaken by an

unmarked blue pick-up carrying several men and women in civilian clothes armed with rifles and pistols. Just then a woman travelling in the car fired twice at Saravia. Then the same woman and a man loaded the wounded man into the vehicle and drove away. The witnesses state that they heard only two shots.

77. Four hours later the people travelling in the pick-up, who were in fact members of the National Civil Police, delivered the victim's body to the San Miguel Institute of Forensic Medicine. They explained the delay by saying that they had tried to take the victim to Usulután for medical attention, but that he had died along the way. As they returned, the vehicle had broken down and they had been obliged to find another one. Upon their arrival at the Institute, one member of the National Civil Police refused to hand over to the judge a weapon confiscated from the victim. Two 9-millimetre cartridge cases, which the police say they had recovered from the scene, were also not turned over to the court. While there are grounds for the police claim that the victim had fired, it should be noted that the police were in civilian clothes, that they did not identify themselves as police officers and that there were enough of them to defuse any threat without firing on the victim. One must conclude that the police action did not fall within the regulatory framework governing the legitimate use of firearms.

2. Death threats

78. It is encouraging to note that, during the reporting period, the number of complaints of death threats fell considerably, from 41 in April, May and June to 18 in the following three months. This reduction might be explained by the fact that the elections are now over.

79. Elías Gutiérrez. On Thursday, 30 June, Miguel Angel Cruz López, judge at the Tejutla court of first instance, had a traffic accident while passing another vehicle. He was driving an official car of the Supreme Court of Justice while highly intoxicated.

80. Between 5 p.m. and 6 p.m., Mr. Cruz López, accompanied by Oscar Guardado Calderón, justice of the peace and court secretary in La Reina; José Rafael Quintanilla, assistant justice of the peace in Nueva Concepción, and his brother, Cruz Chavarría Quintanilla; José Antonio Flores, justice of the peace and court secretary in Agua Caliente, went to the police station in La Reina and asked two officers to go with them to look for the red pick-up allegedly responsible for the accident. The station commander agreed and they all went in search of Elías Gutiérrez, who owned a vehicle of that description. When they found the suspect, Mr. Cruz López blocked the road with his car, took out a gun and pointed it at Gutiérrez. The judges from La Reina and Nueva Concepción did the same, the latter aiming at Mr. Gutiérrez's companion. On seeing this, the two police officers accompanying the judges, José Jacobo Vásquez Rivera and Wilfredo González Lana, placed themselves between the attackers and their victim, ordering the judges to hand over their weapons. Mr. Cruz López pointed his weapon at the policemen, saying that they had no authority to take away his weapon; only after his other companions intervened did he agree to put his gun away, although at no time did he agree to give it up.

81. ONUSAL investigations have found sufficient indications that Judge Cruz López was intoxicated at the time of the accident. Furthermore, his threats with a firearm have been reliably corroborated, by his own admission and by the justices of the peace of Nueva Concepción and La Reina. This case is particularly serious, since it concerns a judge of the Republic.

82. On Saturday, 17 September, Rubén Sánchez, Urban Commander of the Ejército Revolucionario del Pueblo during the war and currently the western region political director for the Santa Ana section of Expresión Renovadora del Pueblo, received a letter at home signed by an irregular group calling itself the Ejército Secreto Anticomunista which warned him of his impending execution. According to the complainant, his fellow party members do not know his home address, as he does not give it out for reasons of personal security.

83. One attempt has already been made on his life at the time of the signing of the peace agreements in 1992, when he was ambushed by persons unknown. They shot at him and seriously wounded him in the lower right leg. He was recently hospitalized in Germany to regain mobility. The authors of the letter are aware of his condition, referring to it in the sentence "The job's been started - you can't even run."

84. He was also a victim of one of the operations carried out on 22 August 1994 by the National Police anti-crime Squad in the Santa Ana Volcano region. When ONUSAL received the complaint, his identity was withheld at his express request as he feared reprisals.

85. A member of Expresión Renovadora del Pueblo who is permanently stationed at the party office has stated that, in the week before this threat, three people in a Toyota extra-cab pick-up with tinted windows had been observed, apparently watching the premises. One of them, who was riding in the back of the pick-up, was carrying a rifle and had two pistols in his belt.

86. Alex Rubio Ramírez, Coordinator for the Frente Farabundo Martí para la Liberación Nacional (FMLN) in Jayaque, received a telephone call at his home on 8 July from an unidentified person who threatened his life. Similar calls were made on 18 and 22 July by the same person. At no time were the motive or the name of the organization specified. Mr. Rubio Ramírez filed complaints with the judicial authorities on 17 August and with the Office of the National Counsel for the Defence of Human Rights on 18 August.

87. ONUSAL contacted Sergeant Iraheta, second-in-command of the National Police station in Jayaque, and informed him of the threats that were being made against Mr. Rubio Ramírez. ONUSAL is reliably informed that the investigation of the threats has been neglected, and has suggested the appointment of a special prosecutor to expedite the investigation.

88. The complainant's personal background provides no clear motive for the threats, but political motivation would appear to be the most plausible, since he is active as a local FMLN leader.

B. Right to integrity of person

1. Torture

89. During the three-month period covered by this report, three complaints of torture were received. One case was fully substantiated after verification, members of the National Civil Police are seriously implicated in the second, and in the third, investigations are still proceeding.

90. Carlos Alberto and Miguel Ángel Grande Menjívar. At 4 a.m. on 29 July, six members of the National Civil Police arrived at the home of the victims, which is located in the settlement of El Calvario, Department of la Libertad. One of the policemen has been identified as Francisco Antonio Cornejo. They identified themselves as members of the Special Anti-drug Trafficking Unit and conducted a violent search of the house for weapons.

91. At 8.30 p.m. on 11 August, five uniformed police officers arrived, dressed in blue trousers and cream-coloured shirts and accompanied by two people in plain clothes. On this occasion, the individuals' faces were concealed by hoods. They entered the dwelling and immediately proceeded to beat the brothers Carlos Alberto and Miguel Ángel Grande. They then tied up the two young men, dragged them out of the building and took them away in two vehicles which had been parked nearby. They drove around until they found a sufficiently isolated place, where they stopped. They interrogated the blindfolded victims one at a time, kicking and punching them, and asking them where they had put some weapons they supposedly possessed. Subsequently, they put plastic bags over their heads. Miguel Ángel, aged 16, was subjected to cigarette burns, particularly on the chest and on one of his hands. They also put a rifle barrel in him mouth and pulled the trigger, but the weapon was not loaded. The object of all this was to make them reveal the whereabouts of their brother Gonzalo, whom they accused of killing Jorge Turcios.

92. The forensic report describes multiple injuries to the victims; these were also observed by ONUSAL and by the Office of the National Counsel for the Defence of Human Rights. The ONUSAL investigation has revealed that on 29 July, officer Francisco Cornejo, accompanied by other members of the National Civil Police, arrived at the scene in search of Gonzalo Grande, who was reputed to be a dangerous individual and to have killed two people, one of whom was José Turcios, the brother of Cornejo. Given the possible involvement of the victims' brother in the killing of José Turcios, the brother of the police officer, this may be a case of the police "taking the law into their own hands".

93. ONUSAL is aware that the Disciplinary Investigation Unit of the National Civil Police is concerned at the seriousness of these complaints and intends to take all necessary steps to remove any officers guilty of human rights violations from the force. Thus far, however, the National Civil Police has not responded to the request from the Office of the National Counsel for a case report. There is reliable evidence that officer Francisco Cornejo took part in the reported events, and the case is being kept open for further investigation.

94. Joel Gómez Carpio. At 8.30 p.m. on 14 August, the victim, a bus conductor, was beaten by two members of the National Civil Police in Soyapango who had

allegedly been summoned by a neighbour who claimed that Gómez had broken a window. They gave the victim a thrashing and left him there; as a result of the blows received, he had to be taken by neighbours to a treatment centre, and from there to Rosales Hospital, where he underwent surgery. He was discharged on 26 August.

95. The investigation conducted in cooperation with the Office of the National Counsel for the Defence of Human Rights has yielded evidence to indicate that National Civil Police members Nelson Ignacio Calles Escobar (identification No. 2296) and Rigoberto Misael Díaz Mejía (identification No. 2344) are indeed guilty of the acts of which they are accused.

2. Ill-treatment

96. Accusations of ill-treatment have fallen slightly as compared with the previous period. One significant fact is that in many cases of ill-treatment, the victims were also found to have been arbitrarily detained.

97. Manuel Quintanilla Arias and José Alejandro Mendoza.
Manuel Quintanilla Arias, aged 14, was in San Miguel selling pineapples from a pick-up truck with his father, Miguel Ángel Quintanilla, when the municipal police arrived and told them that if they continued to sell in that place they would be arrested. According to the boy, he answered that they would leave immediately and moved towards the cab of the truck. At that moment a police officer seized him by the neck with both hands, lifted him up, pinned him against the railings of the ANTEL telephone company office and made some coarse remarks. He then let go of him and took a bicycle belonging to the boy to the police station.

98. A customer who was buying pineapples, José Alejandro Mendoza, seeing the police officer assault the boy, intervened and told the three officers remaining on the scene "that they should leave him alone because he wasn't doing anything, and that they shouldn't mistreat him". On hearing this, the officers initially told him not to interfere, or else they would take him away, too. One of the police officers then seized him by the trousers and began kicking and punching him and hitting him with his rifle butt; an officer in plain clothes then rode up on a bicycle and immediately punched him in the mouth and made more coarse remarks. He was then taken to the police station.

99. Roberto Quiñones. On 23 August, the victim was arrested by members of the National Civil Police in Ilopango and taken to jail at the local police station. There he was beaten by a number of National Civil Police officers, receiving serious injuries which were later noted by the Institute of Forensic Medicine. According to the officer in charge of the police unit, Quiñones and another prisoner, who were intoxicated, began to destroy the jail and even threatened the life of one of the officers. At this, the unit head ordered his men to "control the prisoners using as little force as necessary". From the investigation, ONUSAL has determined that the National Civil Police officers in Ilopango are guilty of the acts of which they are accused.

C. Right to security of person: enforced or involuntary disappearances

100. During the period covered by this report, two complaints of enforced disappearance were received. After verification, it was established that no one had disappeared and the whereabouts of the presumed victims were ascertained.

D. Right to liberty of person

101. In July, August and September 1994, ONUSAL registered 42 arbitrary detentions, which represented a percentage increase over the previous period.

102. Oscar Antonio Valdez and others. Mr. Wernes Martínez Romero reported that on 17 September the San Miguel Municipal Police arbitrarily detained the following people sleeping beside a truck: Oscar Antonio Váldez, José Enrique Zelaya, Juan Carlos Ruiz, Juan Abel Díaz, Santos Véliz Pérez, José Elmer Zelaya, Roberto Carlos Campos, Juan Rojas and Rosa Idalia López, a minor.

103. An ONUSAL check of the Municipal Police station confirmed that eight young men were being detained in the cells and a 15-year-old minor girl was being held in the building corridor. When asked for permission to consult the arrest book, the officer on duty said that a police report had not yet been filed, nearly 24 hours after the arrests, and that the prisoners had been arrested as "suspicious persons", pursuant to an order issued by the mayor. Although Mr. Wernes Martínez Romero left a deposit in the amount of the fine with the station chief in order to secure the release of his employees, their release was not ordered.

104. When questioned by ONUSAL, the mayor acknowledged that the Municipal Police had committed a few irregularities, which he justified as the result of the campaign to combat the crime wave sweeping the country. He was aware that the individuals in question were being detained allegedly on suspicion, but the 72-hour time-limit for ordering their release had not yet expired.

IV. CONCLUSIONS AND RECOMMENDATIONS

105. Progress in the transition to democracy and the consolidation of a State governed by law called for in the El Salvador peace agreements can be seen in the clearly visible change in the country's political and social climate. A gradual expansion of opportunities seems to be convincing people that dialogue and consultation are legitimate democratic vehicles for social relations and the settlement of disputes and to be discrediting the use of violence at all levels. The result is an atmosphere of diminished tension and renewed calm within which the rights and freedoms of the individual can be exercised.

106. The progressive decline in the number of complaints declared admissible by ONUSAL since September 1991 is a useful indicator of the overall gradual improvement in the human rights situation, notwithstanding the reservations I have expressed in past reports. In September 1993 alone, for example, ONUSAL

received 163 complaints of violations of fundamental rights, as compared with 58 complaints in September 1994. It is noteworthy that there have been no enforced disappearances in El Salvador for over two years, an unprecedented absence in Latin America during transitions to democracy. It is also significant that in September 1991 alone ONUSAL declared 119 complaints of arbitrary detention admissible, but only 13 in September 1994.

107. With respect to the right to life, in addition to the gradual decrease in the number of complaints of arbitrary executions, there has been an obvious change in the nature of the violations reported, which less and less often present the shady characteristics of previous periods, such as political motivation and premeditation. The arbitrary executions reported during this period are explained chiefly by police inexperience in the legitimate exercise of force, a shortcoming that must be promptly corrected.

108. It is encouraging that during the reporting period no politically motivated violations of the right to life were noted. This can be explained in large measure by the political liberalization and democratization of the country, together with the response by the State, Salvadorian society and the international community to the ominous period of selective violence in the second half of 1993 directed at citizens who were openly involved in politics. The cooperation of the international community in looking into these incidents, as evidenced by the participation of foreign investigators in police investigations at the invitation of the Government and, at a very basic level, by the creation, at the suggestion of the Secretary-General, of the Joint Unit for the Investigation of Illegal Armed Groups having Political Motivations, seems to have served as a deterrent to political violence.

109. More importantly, however, it is necessary to eradicate definitively all vestiges of the practice of using violence for political purposes and to dismantle the mechanism through which it operates: organized crime. This can be accomplished only by strengthening and consolidating the institutions responsible for criminal investigation and the administration of justice, which will mean lifting the veil of impunity that currently conceals these crimes and makes a resurgence of politically motivated violence possible. For this reason the recommendations of the Joint Unit for the Investigation of Illegal Armed Groups having Political Motivations - that the Office of the Attorney-General continue its investigations of the cases before it and that it form a special unit for the investigation of politically motivated crimes within the Criminal Investigation Section of the National Civil Police - are indeed appropriate.

110. The continued existence of organized crime networks, some of which would appear to involve current members of security forces in cover-ups or their actual operations and enjoy a margin of impunity as a result of weaknesses in the judicial system, constitutes one of the most serious threats to the peace process and democracy in El Salvador. With their sophisticated organization and infrastructure, these criminal structures are not only able to operate in the everyday criminal world but, when necessary, can also direct their machinery against politically active groups or individuals. It is easy to find examples in Latin America of how serious the failure to combat and eradicate criminal organizations promptly can be for political and social stability.

111. The process of institution-building is beginning to overcome initial difficulties and get truly under way. During the reporting period, progress was achieved within the judicial system, the Office of the National Counsel for the Defence of Human Rights and the National Civil Police, and the prospects for carrying out hitherto unimplemented recommendations on the administration of justice and human rights have improved.

112. The Legislative Assembly's election by consensus of a new Supreme Court of Justice is an important step towards guaranteeing the autonomy and impartiality that the chief judicial body requires and will also foster further judicial reform. The new Court's determination to promote this process can already be seen in a number of measures to reorganize the court system and in the Court's manifest intention to purify the judiciary. The results of these efforts would have optimal effect if emphasis was placed on the ongoing professionalization of members of the judicial system and a strategy for the comprehensive training of judges and government procurators with a view to identifying the new qualifications such officials should possess in a democratic judicial system which deserves the support of the international community.

113. The biggest obstacle to the process of institution-building is the delay in enacting certain legal reforms. This view is corroborated by an anonymous survey conducted among government procurators, justices of the peace and judges of courts of first instance regarding the main deficiencies in the administration of justice. Similarly, the enhancing of measures for the protection of human rights in El Salvador is contingent upon the adoption of the various international instruments and acceptance of the competence of the Inter-American Court of Human Rights, neither of which has occurred despite repeated recommendations. All of this leads me to suggest that the members of the Supreme Court of Justice should press the Legislative Assembly to approve the pending reforms soon.

114. The Office of the National Counsel for the Defence of Human Rights has made progress in strengthening its institutional capacity. Its involvement in technical cooperation activities and its implementation in July with the Human Rights Division of a joint verification mechanism have been decisive in enabling the Office to broaden and strengthen human rights protection and in improving its ability to take over the verification activities currently performed by ONUSAL when ONUSAL leaves the country. However, the Government and the Legislative Assembly need to budget sufficient funds for the Office's requirements, given its cooperation with ONUSAL in the overhaul of the Office's monitoring system and the need for it to continue to operate throughout the country.

115. At this stage, the progress made in deploying the National Civil Police should be accompanied by increased professionalism and specialization in police activities, a strengthening of internal police control mechanisms and a clearer definition of the Force's chain of command. The appointment of an Inspector-General of the National Civil Police during this period represents a significant advance. Changes in the National Civil Police must be accompanied by steps in the judiciary, the Office of the Chief State Counsel and the Office of the Attorney-General to overcome the deficiencies that hinder police activities, as

well as by improving linkages between the National Civil Police and the National Public Security Academy.

116. The problems in the penitentiary system confirmed by ONUSAL two years ago have yet to be solved. This situation, coupled with the successive riots in the country's detention centres, led me to suggest the declaration of a state of emergency in the penitentiary system. I have submitted to various State entities a series of proposals for the joint implementation of solutions to the crisis that go beyond improving the prison infrastructure. I have suggested the establishment of a comprehensive plan for reorienting Salvadorian criminal policy which would include the following measures. The Supreme Court of Justice should issue a series of instructions to judges regarding the discretional use of pre-trial detention, the notification of defendants of any circumstance which may affect their legal position and closer supervision over prison officials. The Office of the Attorney-General should instruct government procurators to be more selective in appealing pre-trial release orders and to the supervision and orientation of criminal investigations. The Office of the Chief State Counsel of the Republic should establish internal mechanisms for controlling the work of defence attorneys in trials where the defendant is present. These measures would complement others required of the central Government and the penitentiary system itself, such as increasing budget allocations and unifying the penitentiary regulations.

Notes

a/ General Assembly resolution 2200 A (XXI), annex.

b/ E/CN.4/Sub.2/1987/12/Add.1.

c/ International Legal Materials, vol. 28 (1989), pp. 161-169.

V. STATISTICS

Table 1

STATISTICAL ANALYSIS OF TRENDS OVER THE PERIOD JULY-SEPTEMBER 1994
(Twelfth report to the Secretary-General)

COMPLAINTS DECLARED ADMISSIBLE BY ONUSAL

Complaints declared admissible	July	August	September	Total
VIOLATIONS OF THE RIGHT TO LIFE				
Arbitrary executions	4	8	9	21
Attempted arbitrary executions	2	0	3	5
Death threats	9	7	4	20
VIOLATIONS OF THE RIGHT TO INTEGRITY OF PERSON				
Torture	1	2	0	3
Ill-treatment	10	10	5	25
Excessive use of force	6	6	3	15
VIOLATIONS OF THE RIGHT TO SECURITY OF PERSON				
Enforced disappearances	1	1	0	2
Abductions	2	2	1	5
Other threats	7	5	6	18
VIOLATIONS OF DUE PROCESS OF LAW				
PROCEDURAL GUARANTEES				
Right to be tried by a tribunal within a reasonable period of time	3	2	0	5
Right to defence	2	3	0	5
Right not to be coerced	3	2	0	5
Right to judicial review	0	0	0	0
RIGHT TO JUSTICE				
Legal obligation of the State to investigate and punish	11	8	9	28
Right to compensation	0	1	1	2
VIOLATIONS OF THE RIGHT TO PERSONAL FREEDOM				
Arbitrary detentions	20	10	13	43
Arbitrary detentions for petty misdemeanours	2	0	3	5
Procedural guarantees	8	3	0	11

Complaints declared admissible	July	August	September	Total
VIOLATIONS OF THE RIGHT TO FREEDOM OF EXPRESSION	0	0	0	0
VIOLATIONS OF THE RIGHT TO FREEDOM OF ASSOCIATION				
Right to associate freely	1	1	1	3
Freedom of assembly	0	0	0	0
Trade union freedom	0	0	1	1
VIOLATIONS OF THE RIGHT TO IDENTITY DOCUMENTS				
To obtain personal identification documents	0	0	0	0
To obtain civil status documents	0	0	0	0
TOTAL	92	71	59	222

Table 2

COMPLAINTS AGAINST THE NATIONAL CIVIL POLICE DECLARED ADMISSIBLE BY ONUSAL

1 July 1994 to 30 September 1994

Complaints declared admissible	National Civil Police	Confirmed	By category of right violated	Percentage
VIOLATIONS OF THE RIGHT TO LIFE			9	10.3
Arbitrary executions	8	3		
Attempted arbitrary executions	0	0		
Death threats	1	1		
VIOLATIONS OF THE RIGHT TO INTEGRITY OF PERSON			28	32.2
Torture	2	1		
Ill-treatment	13	3		
Excessive use of force	13	2		
VIOLATIONS OF THE RIGHT TO SECURITY OF PERSON			5	5.7
Enforced disappearances	0	0		
Abductions	0	0		
Other threats	5	1		
VIOLATIONS OF DUE PROCESS OF LAW			8	9.2
PROCEDURAL GUARANTEES				
Right to be tried by a tribunal within a reasonable period of time	2	1		
Right to defence	1	1		
Right not to be coerced	0	0		
Right to judicial review	0	0		
RIGHT TO JUSTICE				
Legal obligation of the State to investigate and punish	5	0		
Right to compensation	0	0		

Complaints declared admissible	National Civil Police	Confirmed	By category of right violated	Percentage
VIOLATIONS OF THE RIGHT TO PERSONAL FREEDOM			37	42.5
Arbitrary detentions	29	9		
Arbitrary detentions for petty misdemeanours	2	0		
Procedural guarantees	6	4		
TOTAL	87	26		100

Table 3

PERSONS PRESUMED RESPONSIBLE FOR VIOLATIONS

July-September 1994

(Period covered by the twelfth report to the Secretary-General)

Persons presumed responsible	July	August	September	Total	Percentage
Members of national police	20	9	2	31	14.0
Irregular groups	1	1	1	3	1.4
Persons unknown	12	11	11	34	15.3
Members of municipal police	4	1	3	8	3.6
Members of National Civil Police	32	25	27	84	37.8
Members of armed forces	1	4	2	7	3.2
Public prosecutor's office	0	0	0	0	0.0
Administration	1	1	1	3	1.4
Judiciary	18	13	9	40	18.0
Anti-drug Trafficking Unit	1	1	0	2	0.9
Criminal Investigation Commission	0	0	0	0	0.0
FMLN	0	0	0	0	0.0
Others	2	5	3	10	4.5
TOTAL	92	71	59	222	100.0

Table 4

COMPLAINTS DECLARED ADMISSIBLE BY CATEGORY OF RIGHT VIOLATED

July-September 1994

(Percentage)

Violation	July	August	September	Total
Life	16.30	21.13	27.12	21.52
Integrity	18.48	25.35	13.56	19.13
Security	10.87	11.27	11.86	11.33
Due process	20.65	22.53	16.95	20.04
Personal freedom	32.61	18.31	27.12	26.01
Freedom of expression	0.00	0.00	0.00	0.00
Freedom of association	1.09	1.41	3.39	1.96
Personal documentation	0.00	0.00	0.00	0.00
TOTAL	100.00	100.00	100.00	100.00

Table 5

COMPLAINTS DECLARED ADMISSIBLE BY ONUSAL DURING THE PERIOD AUGUST 1992-SEPTEMBER 1994

	1992	1993												1994								
COMPLAINTS DECLARED ADMISSIBLE	Sub-total Aug-Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
VIOLATIONS OF THE RIGHT TO LIFE																							
Arbitrary executions	94	12	15	6	11	11	16	16	10	14	13	18	15	8	14	9	8	5	6	4	8	9	322
Attempted arbitrary executions	7	2	1	2	3	3	1	5	2	4	4	4	2	0	6	3	4	2	0	2	0	3	60
Death threats	157	8	19	17	11	6	9	25	17	27	7	34	11	10	22	18	19	14	8	9	7	4	459
VIOLATIONS OF THE RIGHT TO INTEGRITY OF PERSON																							
Torture	5	0	2	0	1	1	1	0	0	4	0	0	2	1	2	0	0	2	1	1	2	0	25
Ill-treatment	182	15	21	28	12	11	15	16	9	21	9	15	12	8	5	4	6	17	9	10	10	5	440
Excessive use of force	3	3	4	6	7	2	5	10	6	5	1	4	5	5	5	4	3	6	1	6	6	3	100
VIOLATIONS OF THE RIGHT TO SECURITY OF PERSON																							
Enforced disappearances	8	0	3	0	1	0	1	0	1	1	1	1	1	1	0	1	0	0	0	1	1	0	22
Abductions	25	2	0	3	2	1	0	4	5	1	0	7	1	1	3	9	4	0	2	2	2	1	75
Other threats	16	8	9	14	15	14	16	16	14	14	15	22	11	11	3	20	16	5	3	7	5	6	260
VIOLATIONS OF DUE PROCESS OF LAW																							
PROCEDURAL GUARANTEES																							
Right to be tried by a tribunal within a reasonable period of time	21	0	0	0	0	1	0	1	0	0	0	4	3	5	5	2	0	0	1	3	2	0	48
Right to defence	3	8	12	2	6	4	4	5	2	3	4	0	3	1	0	0	2	0	1	2	3	0	65
Right not to be coerced	1	3	8	1	3	2	2	2	2	1	4	2	0	1	2	2	0	1	1	3	2	0	43
Right to judicial review	1	1	6	1	1	0	1	2	6	2	4	0	0	0	0	0	0	0	0	0	0	0	25

	1992	1993												1994									
COMPLAINTS DECLARED ADMISSIBLE	Sub-total Aug-Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
RIGHT TO JUSTICE																							0
Legal obligation of the State to investigate and punish	12	4	17	30	27	25	28	24	7	29	25	23	13	15	17	16	12	10	11	11	8	9	373
Right to compensation	2	0	1	0	0	0	0	1	0	0	1	0	1	1	0	0	0	0	1	0	1	1	10
VIOLATIONS OF THE RIGHT TO PERSONAL FREEDOM																							
Arbitrary detentions	188	16	16	10	17	31	25	18	12	24	32	15	11	5	7	7	11	14	7	20	10	13	509
Arbitrary detentions for petty misdemeanours	11	5	16	9	6	5	5	8	9	6	5	1	2	2	0	2	0	2	2	2	0	3	101
Procedural guarantees	40	5	4	2	2	2	11	2	3	0	4	10	3	3	1	1	5	2	5	8	3	0	116
VIOLATIONS OF THE RIGHT TO FREEDOM OF EXPRESSION		0	3	0	2	1	0	0	0	1	0	1	1	0	1	1	0	0	0	0	0	0	11
VIOLATIONS OF THE RIGHT TO FREEDOM OF ASSOCIATION																							
Right to associate freely	21	3	2	5	2	3	2	1	3	2	2	1	2	0	1	1	0	0	1	1	1	0	54
Freedom of assembly	0	1	0	1	0	0	0	0	0	0	0	0	0	1	2	0	0	0	0	0	0	0	5
Trade union freedom	12	1	0	0	0	3	1	0	1	2	1	0	0	0	0	0	0	1	0	0	0	1	23
VIOLATIONS OF THE RIGHT TO IDENTITY DOCUMENTS																							
To obtain personal identification documents	3	0	1	0	0	0	0	0	0	1	1	0	0	0	0	0	0	1	0	0	0	0	7
To obtain civil status documents	0	0	0	2	1	0	0	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	5
TOTAL	812	97	160	139	130	126	143	156	109	163	133	163	99	79	96	100	90	82	60	92	71	58	3 158

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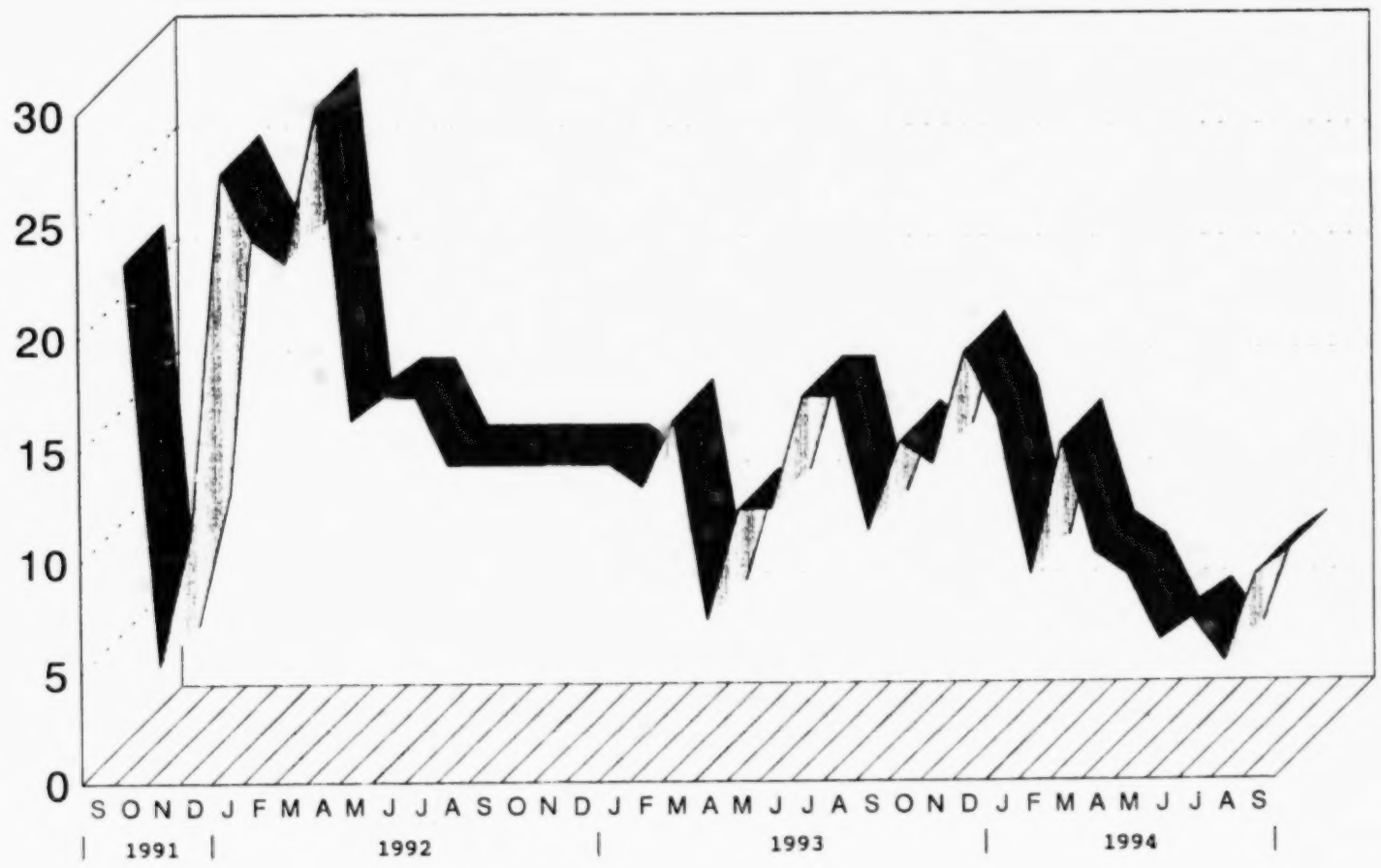
Table 6

ARBITRARY EXECUTIONS: COMPLAINTS DECLARED ADMISSIBLE BY ONUSAL



SEPTEMBER 1991-SEPTEMBER 1994

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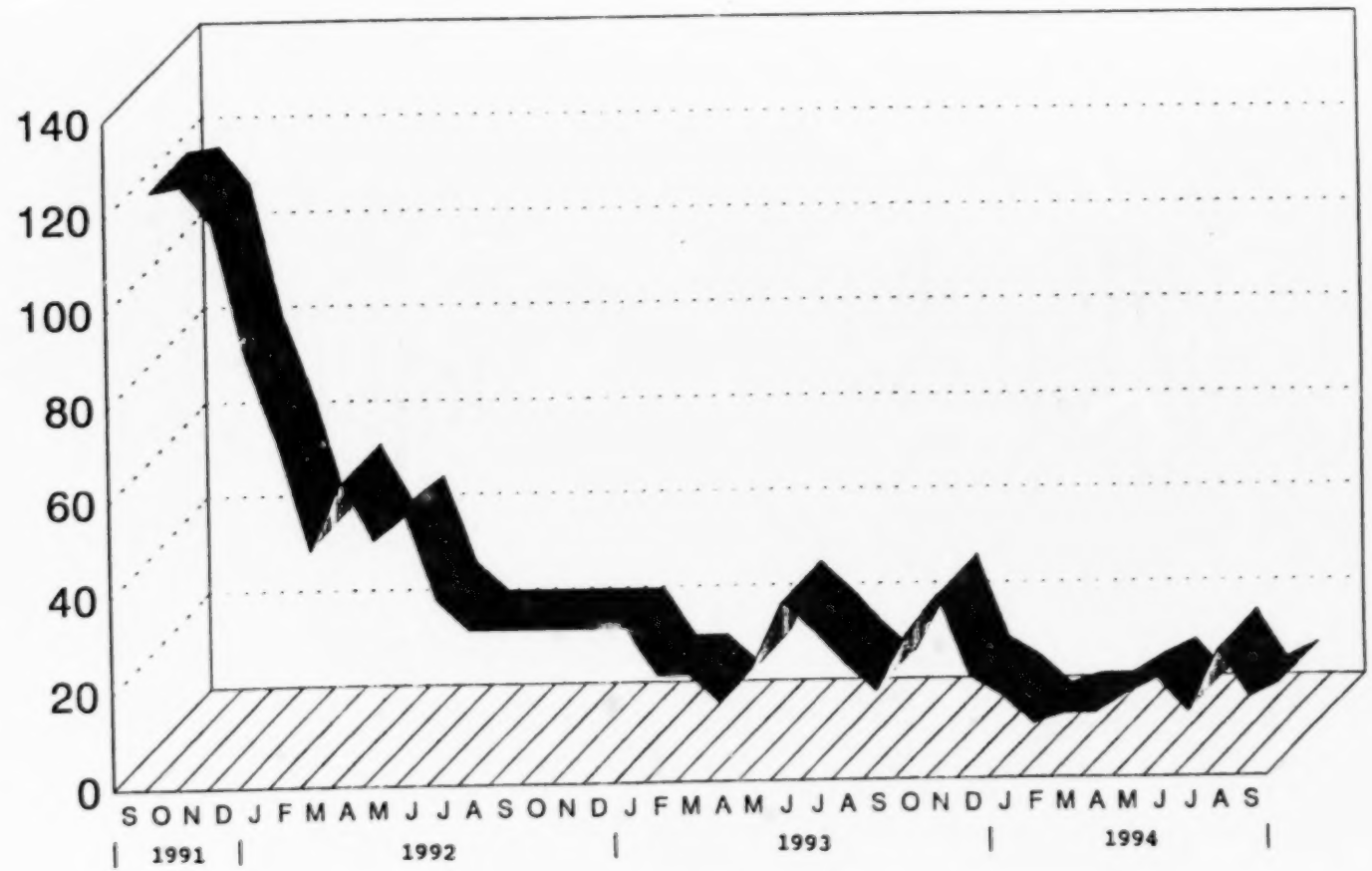
Table 7

ARBITRARY DETENTIONS: COMPLAINTS DECLARED ADMISSIBLE BY ONUSAL



SEPTEMBER 1991-SEPTEMBER 1994

Table 8

ENFORCED DISAPPEARANCES

Cases of enforced disappearances considered by the Working Group on Enforced or Involuntary Disappearances of the United Nations Commission on Human Rights during the 1980s	Complaints of enforced disappearances confirmed by ONUSAL, 1992-1994
2,219	0